

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
) 3:04-cr-00035-LRH-RAM
 Plaintiff,)
) MINUTE ORDER
 vs.)
) May 21, 2012
 ROBERT DEAN ELLSWORTH,)
)
 Defendant.)
 _____)

PRESENT: THE HONORABLE LARRY R. HICKS, UNITED STATES DISTRICT JUDGE

DEPUTY CLERK: NONE APPEARING REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Before the Court is Defendant's Motion for Order Designating Defendant's Sentence to Have Commenced as of March 17, 2004, When Taken into Federal Custody on This Case, Nunc Pro Tunc; and for Order for Immediate Release from Federal Custody on this Case (Doc. #45). The Government did not respond. Credit for time served against a federal sentence is governed by 18 U.S.C. § 3585(b). A district court lacks the authority to make an initial determination of time served, which must be made in the first instance by the Attorney General, acting through the Bureau of Prisons. *United States v. Wilson*, 503 U.S. 329, 334-35 (1992); *United States v. Peters*, 470 F.3d 907, 909 (9th Cir. 2006). Judicial review may be sought only after exhaustion of administrative remedies. Here, there is no indication that Defendant has requested review by the Bureau of Prisons or exhausted all his administrative remedies.

IT IS THEREFORE ORDERED that Defendant's Motion for Order Designating Defendant's Sentence to Have Commenced as of March 17, 2004, When Taken into Federal Custody on This Case, Nunc Pro Tunc; and for Order for Immediate Release from Federal Custody on this Case (Doc. #45) is DENIED.

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk